



NOTICE OF INTENT TO SEEK THE DEATH PENALTY

May 15, 1997

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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES
OF AMERICA,
Plaintiff,

V.

THEODORE JOHN
KACZYNSKI,
Defendant.

NOTICE OF
INTENT TO
SEEK THE
DEATH PENALTY

CR NO. S-96-0259
GEB

Pursuant to the requirements of 18 U.S.C § 3593(a), the United States hereby gives notice that it believes that the circumstances of this case are such that, in the event that the defendant is convicted of either of the capital offenses relating to the death of Gilbert B. Murray, a sentence of death is justified and that the United States will seek the death

penalty. Specifically, the United States will seek a sentence of death for each of the following counts charged in the indictment: Count Eight (transportation of an explosive device with intent to kill or injure in violation of 18 U.S.C. § 844(d)) and Count Nine (mailing of an explosive device with intent to kill or injure in violation of 18 U.S.C. § 1716).

Pursuant to 18 U.S.C. § 3591(a)(2), the United States will rely on the following preliminary factors to establish the defendant's eligibility for the death penalty:

1. The defendant intentionally killed the victim. 18 U.S.C. § 3591(a)(2)(A).
2. The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim. 18 U.S.C. § 3591(a)(2)(B).
3. The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).
4. The defendant intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

Pursuant to 18 U.S.C. § 3592(c), the United States will rely on the following statutory aggravating factors as justifying a sentence of death:

1. The death, or injury resulting in death, occurred during the commission or attempted commission of an offense under 18 U.S.C. § 844(d) which prohibits transportation of an explosive device in interstate commerce with intent to kill. 18 U.S.C. § 3592(c)(1).
2. The defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense. 18 U.S.C. § 3592(c)(5).
3. The defendant committed the offense after substantial planning and premeditation to cause the death of one or more persons and to commit an act of terrorism. 18 U.S.C. § 3592(c)(9).

In addition to the statutory aggravating factors set forth above, the United States will rely on the following

nonstatutory aggravating factors to justify a sentence of death:

1. The defendant has committed two other murders and numerous other significant acts of violence and attempted acts-of violence and has made threats of violence against others.
2. The defendant has a low potential for rehabilitation.
3. The defendant lacks remorse for any of the murders and other acts of violence which he has committed.
4. The defendant represents a continuing danger to the lives and safety of other persons.
5. The defendant caused severe and irreparable harm to the families of three murder victims and caused life altering injuries to the survivors of his acts of violence.

DATED: 5/15/97

Respectfully submitted,



Paul L. Seave
United States Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers.

That on May 15, 1997, she served a copy of the NOTICE OF INTENT TO SEEK THE DEATH PENALTY by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named. at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California or by depositing said envelope and contents in the inter-office mailbox at the Clerk's Office, Federal Building, Sacramento, California.

Addressee(s):

Quin Denvir
Federal Defender
801 K Street, Suite 1024
Sacramento, CA 95814

Judy Clarke
Executive Director of Federal Defenders of Eastern
Washington & Idaho
10 North Post, Suite 700
Spokane, WA 99201

A handwritten signature in black ink, appearing to read "Sandra Callahan". The signature is fluid and cursive, with a large loop at the end of the last name.

Sandra Callahan

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